

**AMENDMENTS TO THE DRAWINGS**

By this Amendment, FIGS. 1 and 3 are amended to correctly indicate the cover piece 21 as described in the specification at, for example, page 4, lines 26-29. FIG. 1 is amended to include reference numeral 21 and an appropriate lead line. FIG. 3 is amended to remove reference number 21 because the cover piece is not depicted in this figure. No new matter is added. Consideration and entry of the Replacement Sheets are respectfully requested.

Attachments: 2 Replacement Sheets (FIGS. 1 & 2; FIG. 3).

## **REMARKS**

### **I. INTRODUCTORY REMARKS**

Claims 31-35, 37-40, and 44-51 are pending in the application. By this Amendment, claims 31, 38, and 44 are amended to more particularly recite the features of the mixing system and the method of mixing a plurality of constituents from pressurized containers. Claims 36 and 41-43 are canceled without prejudice or disclaimer and Applicant expressly reserves the right to pursue these claims in a subsequent application. New claim 51 is added. In view of the foregoing amendments and following remarks, the Applicant respectfully submits that the application is in condition for allowance. Reconsideration and withdrawal of the rejections are respectfully requested.

### **II. DRAWINGS**

By this Amendment, FIGS. 1 and 3 are amended to correctly indicate the cover piece 21 as described in the specification at, for example, page 4, lines 26-29. FIG. 1 is amended to include reference numeral 21 and an appropriate lead line. FIG. 3 is amended to remove reference number 21 because the cover piece is not depicted in this figure. No new matter is added. Consideration and entry of the two (2) Replacement Sheets are respectfully requested.

### **III. SPECIFICATION**

By this Amendment, the Title is hereby replaced to read: "AEROSOL MIXING SYSTEM." Additionally, the paragraph beginning at line 26 on page 4 of the specification is hereby amended to correspond with the corrected drawings. That is, the recitation of the cover piece 21 now refers to FIG. 1. No new matter is added.

### **IV. CLAIM REJECTIONS UNDER 35 U.S.C. § 102**

#### **Kennedy *et al.***

In numbered paragraph 1 on page 2 of the Office Action dated September 17, 2007, claims 31-37, 41, 44, and 48-50 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,236,457 to Kennedy *et al.* The rejection is respectfully traversed. Nevertheless, in the interest of expediting prosecution, claims 31 and 44 are amended to more particularly recite the features of the mixing system and method of mixing a plurality of

constituents from pressurized containers. Reconsideration and withdrawal of the rejections are respectfully requested.

Claim 31, as amended, recites:

A mixing system comprising:  
two containers containing constituents;  
a cartridge for mixing the constituents comprising:  
inputs for accepting the constituents from  
the containers;  
a plenum in fluid communication with the  
inputs and into which the constituents flow and are mixed;  
a mixing canal in fluid communication with  
the plenum; and  
an outlet through which the mixed  
constituents are dispensed;  
a head for holding said cartridge; and  
a collar connecting said head and said cartridge to  
said containers, wherein *said cartridge is disposed between said  
head and said collar.* (emphasis added).

Thus, claim 31 requires that the cartridge includes "a plenum in fluid communication with the inputs and into which the constituents flow and are mixed." Additionally, the positioning of the cartridge relative to the head and collar is recited.

In contrast, Kennedy purportedly relates to a composite spray container assembly including, in one embodiment, separate containers 56, a support end nozzle assembly 59, a nozzle assembly 63 including a body portion 64 and nozzle 66, and a trigger arm 71. None of the embodiments shown and described in Kennedy, however, teach or suggest "a head for holding said cartridge . . . wherein said cartridge is disposed between said head and said collar." Accordingly, reconsideration and withdrawal of the rejection of claim 31 are respectfully requested. Claims 32-35, 37, and 51 depend from claim 31 and are believed to be allowable for at least the same reasons. Claim 44 recites a method of mixing a plurality of constituents from pressurized containers and includes the features of the mixing system recited in claim 31. Claims 48 and 49 depend from claim 44 and are submitted as being allowable for at least the same reasons.

Claim 50 recites the mixing system in means-plus-function format pursuant to 35 U.S.C. § 112, sixth paragraph. 35 U.S.C. § 112, sixth paragraph, states that a claim limitation expressed in means-plus-function language "shall be construed to cover the corresponding structure

described in the specification and equivalents thereof." See M.P.E.P. § 2181. It is respectfully submitted that the Office Action fails to properly construe claim 50 and that, when construed properly, is not anticipated by Kennedy. Reconsideration and withdrawal of the rejection are respectfully requested.

**DE 19911776**

In numbered paragraph 2 on pages 2-3 of the Office Action, claims 31-50 are rejected under 35 U.S.C. § 102(b) as being anticipated by German Patent Document DE 19911776. The rejection is respectfully traversed. Nevertheless, in the interest of expediting prosecution, claims 31, 38, and 44 are amended to more particularly recite the features of the mixing system and method of mixing a plurality of constituents from pressurized containers. Reconsideration and withdrawal of the rejections are respectfully requested.

Claim 31, as amended, recites "a cartridge for mixing the constituents comprising: inputs for accepting the constituents from the containers; *a plenum in fluid communication with the inputs and into which the constituents flow and are mixed*; a mixing canal in fluid communication with the plenum; and an outlet through which the mixed constituents are dispensed." DE 19911776, on the other hand, purportedly relates to "a packaging system for the in-situ preparation of cosmetic formulations which has a micromixer." Abstract of related U.S. Patent No. 6,817,753 to Buenger *et al.* "The micromixer can be connected to one or more stock chambers." *Id.* The Applicant respectfully submits that DE 19911776 fails to teach or suggest at least "a plenum in fluid communication with the inputs and into which the constituents flow and are mixed" as recited in claims 31 and 44. Claims 32-35, 37-40, and 51 depend from claim 31 and are submitted as being allowable for at least the same reasons. Claims 45-49 depend from claim 44 and are submitted as being allowable for at least the same reasons.

Claim 50 recites the mixing system in means-plus-function format pursuant to 35 U.S.C. § 112, sixth paragraph. 35 U.S.C. § 112, sixth paragraph, states that a claim limitation expressed in means-plus-function language "shall be construed to cover the corresponding structure described in the specification and equivalents thereof." See M.P.E.P. § 2181. It is respectfully submitted that the Office Action fails to properly construe claim 50 and that, when construed properly, is not anticipated by DE 19911776. Reconsideration and withdrawal of the rejection are respectfully requested.

**Gueret**

In numbered paragraph 3 on page 3 of the Office Action, claims 31-50 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,773,562 to Gueret. The rejection is respectfully traversed. Nevertheless, in the interest of expediting prosecution, claims 31, 38, and 44 are amended to more particularly recite the features of the mixing system and method of mixing a plurality of constituents from pressurized containers. Reconsideration and withdrawal of the rejections are respectfully requested.

As noted above, amended claim 31 recites "a cartridge for mixing the constituents," "a head for holding the cartridge," and "a collar connecting said head and said cartridge to said containers, wherein said cartridge is disposed between said head and said collar." Gueret, on the other hand, purportedly relates to a "dispenser head for mixing separate pasty substances and a storage unit provided with such a dispenser head." Title. The Applicant respectfully submits that Gueret fails to teach or suggest at least the three recited separate components (i.e., a collar, a cartridge, and a head) as recited in claims 31 and 44. New dependent claim 51 additionally recites that "the head and the cartridge are moveable together relative to the collar and the containers." Lid 14 and mixer head 4 of Gueret are not moveable together relative to peripheral skirt 19. Claims 32-35, 37-40, and 51 depend from claim 31 and are submitted as being allowable for at least the same reasons. Claims 45-49 depend from claim 44 and are submitted as being allowable for at least the same reasons.

Claim 50 recites the mixing system in means-plus-function format pursuant to 35 U.S.C. § 112, sixth paragraph. 35 U.S.C. § 112, sixth paragraph, states that a claim limitation expressed in means-plus-function language "shall be construed to cover the corresponding structure described in the specification and equivalents thereof." *See* M.P.E.P. § 2181. It is respectfully submitted that the Office Action fails to properly construe claim 50 and that, when construed properly, is not anticipated by Gueret. Reconsideration and withdrawal of the rejection are respectfully requested.

**V. CONCLUSION**

Claims 31-35, 37-40, and 44-51 are pending in the application. In view of the foregoing amendments and remarks, Applicant believes that the present application is in condition for

allowance. If the Examiner believes, for any reason, that a personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Prompt and favorable consideration on the merits is respectfully requested.

Respectfully submitted,

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